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1 LOIS J. SCHIFFER  
Assistant Attorney General  
2 Environment and Natural Resources  
Division  
3 United States Department of Justice  
Washington, D.C. 20530

4 NANCY J. SPENCER  
5 Senior Counsel  
Environmental Enforcement Section  
6 United States Department of Justice  
301 Howard Street, Suite 870  
7 San Francisco, CA 94105  
Telephone: (415) 744-6485

8 PAUL L. SEAVE  
9 United States Attorney  
Eastern District of California

10 F. ROBERT WRIGHT  
Assistant United States Attorney  
11 1130 O Street, Room 3654  
12 Fresno, California 93721  
13 (209) 499-2722

14 Attorney for Plaintiff  
United States of America

15 JAMES J. DRAGNA  
16 McCutchen, Doyle, Brown & Enersen, LLP  
355 South Grand Avenue, Suite 4400  
17 Los Angeles, California 90071-1560  
(213) 680-6436

18 Attorney for Defendant  
19 Texaco Refining and Marketing, Inc.

20  
21 UNITED STATES DISTRICT COURT  
22 EASTERN DISTRICT OF CALIFORNIA

23 UNITED STATES OF AMERICA,

24 Plaintiff,

25 v.

26 TEXACO REFINING AND  
27 MARKETING, INC.,

28 Defendant.

CIV F- 98 - 6073 AWI DLB

No.

STIPULATION, SETTLEMENT  
AGREEMENT AND ORDER

DEPARTMENT OF JUSTICE

SEP - 5 1998

LANDS DIVISION  
FEDERAL BUREAU OF SURVEY

LODGED  
SEP 29 1998  
CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
BY

1 The United States of America, by authority of the Attorney General of the United States  
2 and acting at the request of the Administrator of the Environmental Protection Agency, filed a  
3 Complaint against Texaco Refining and Marketing, Inc. ("Texaco") simultaneously with this  
4 Stipulation, Settlement Agreement, and Order ("Stipulation and Order"). The Complaint seeks  
5 civil penalties pursuant to section 113(b) of the Clean Air Act, 42 U.S.C. § 7413(b); section 109  
6 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"),  
7 42 U.S.C. § 9609; and section 325(b) and (c) of the Emergency Planning and Community Right-  
8 to-Know Act ("EPCRA"), 42 U.S.C. § 11045(b) and (c).

9 NOW THEREFORE, before the taking of any testimony, without adjudication or  
10 admission of any issue of fact or law, and upon consent and agreement of the parties to this  
11 Stipulation and Order, it is hereby AGREED, STIPULATED, and ORDERED:

12 1. This Court has jurisdiction over the subject matter of this action pursuant to  
13 section 113(b) of the Clean Air Act, 42 U.S.C. § 7413(b); sections 109(c) and 113(b) of  
14 CERCLA, 42 U.S.C. § 9609(c) and 9613(b); section 325 of EPCRA, 42 U.S.C. § 11045; and 28  
15 U.S.C. §§ 1331, 1345 and 1355. The complaint states claims upon which relief may be granted.

16 2. Venue is appropriate in this District pursuant to section 113(b) of the Clean Air  
17 Act, 42 U.S.C. § 7413(b); section 113(b) of CERCLA, 42 U.S.C. § 9613(b); section 325 of  
18 EPCRA, 42 U.S.C. § 11045; and 28 U.S.C. §§ 1391 and 1395.

19 3. Texaco waives service of the summons and complaint.

20 4. The United States has provided notice of this action to the State of California  
21 pursuant to Section 113(b) of the Clean Air Act, 42 U.S.C. § 7413(b).

22 5. Within thirty (30) calendar days after the Court enters this Stipulation and Order,  
23 Texaco shall pay a civil penalty to the United States of America in the amount of \$560,000.  
24 Payment shall be made by Electronic Funds Transfer ("EFT") to the United States Department of  
25 Justice in accordance with current EFT procedures, referencing USAO File Number 1998V0089  
26 DOJ Case Number 90-5-1-2122 and the civil action case name and case number of the Eastern  
27 District of California. Payment shall be made in accordance with instructions provided to  
28 Texaco by the Financial Litigation Unit of the U.S. Attorney's Office in the Eastern District of

1 California. Any funds received after 11:00 a.m. (EST) shall be credited on the next business day.  
2 Texaco shall provide notice of payment, referencing USAO File Number 1998V0089, DOJ Case  
3 Number 90-5-2-1-2122, and the civil action case name and case number to:

4 Robert Mullaney  
5 Assistant Regional Counsel  
6 U.S. EPA - Region 9  
7 Mail Code ORC-2  
8 75 Hawthorne Street  
9 San Francisco, CA 94105

10 Chief, Environmental Enforcement Section  
11 Environment & Natural Resources Division  
12 U.S. Department of Justice  
13 P.O. Box 7611  
14 Washington, D.C. 20044

15 6. If any portion of the civil penalty payable under this Stipulation and Order is not  
16 paid when due, Texaco shall pay a stipulated penalty of \$1000 for each day that Texaco's civil  
17 penalty payment is delayed beyond the date due. Further, interest shall accrue on any amount  
18 overdue to the United States from the first day after the civil penalty is due through the date of  
19 payment at the rate of interest established by the Secretary of the Treasury pursuant to 31 U.S.C.  
20 § 3717.

21 7. Payment of any interest and stipulated penalty shall be made in the manner set  
22 forth in Paragraph 5.

23 8. Payment of all amounts due under this Stipulation and Order shall constitute full  
24 settlement and satisfaction of the civil claims of the United States asserted in the Complaint filed  
25 in this action against Texaco and in the Finding of Violation dated September 6, 1996 (EPA  
26 Region 9 Docket No. 9-96-22).

27 9. If any portion of or the entire civil penalty and interest are not paid, the United  
28 States may move to reinstate this action.

10. If payment of any amount due under this Stipulation and Order is not made within  
thirty (30) calendar days of entry of this Stipulation and Order, this Stipulation and Order shall  
constitute an enforceable judgment for purposes of post-judgment collection in accordance with  
Rule 69 of the Federal Rules of Civil Procedure, the Federal Debt Collection Procedure Act. 28

1 U.S.C. § 3001-3308, and other applicable federal authority. The United States shall be deemed a  
2 judgment creditor for purposes of collection of any unpaid amounts of the civil penalties and  
3 interest.

4 11. Texaco shall be liable for any and all expenses, including but not limited to  
5 attorneys fees, incurred by the United States in collecting any defaulted portion of the amounts  
6 due under this Stipulation and Order.

7 12. Within thirty (30) days of the receipt of the full amount due under this Stipulation  
8 and Order, the United States shall file Notice with the Court that full payment has been received.  
9 At that time, the claims asserted in the Complaint against Texaco shall be dismissed with  
10 prejudice, with each party bearing its own costs and attorneys fees.

11 13. The payment obligations of this Stipulation and Order apply to and are binding  
12 upon Texaco. Any change in ownership or corporate status shall not alter Texaco's payment  
13 obligations herein.

14 14. The undersigned representatives of Texaco and the Assistant Attorney General for  
15 the Environment and Natural Resources Division of the United States Department of Justice  
16 certify that he or she is fully authorized to enter into the terms and conditions of this Stipulation  
17 and Order and to execute and legally bind that party to it.

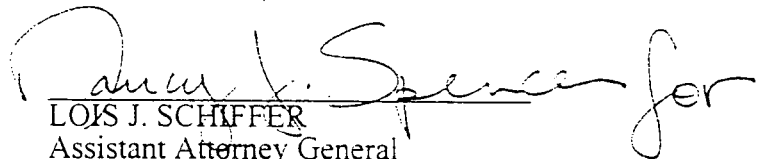
18 15. The Court shall retain jurisdiction to interpret and enforce this Stipulation and  
19 Order until the United States files the Notice of Payment.

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21 AS STIPULATED AND AGREED TO BY THE PARTIES, IT IS SO ORDERED AND  
22 ADJUDGED.

23 Date: 9-24-98

24   
United States District Judge

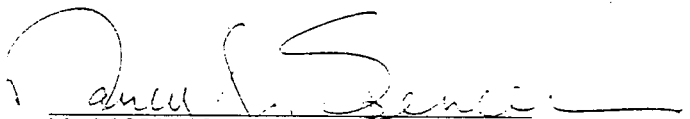
1 THE UNDERSIGNED, ON BEHALF OF PLAINTIFF THE UNITED STATES OF AMERICA,  
2 enter into this Stipulation, Settlement Agreement, and Order in the matter of United States v.  
3 Texaco Refining and Marketing, Inc., Civ. No. (E.D. Cal.).

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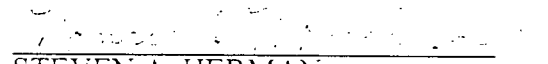
6 LOIS J. SCHIFFER  
7 Assistant Attorney General  
8 Environment and Natural Resources  
9 Division  
10 United States Department of Justice

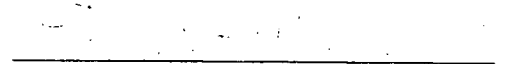
11 PAUL L. SEAVE  
12 United States Attorney  
13 Eastern District of California

14   
15 E. ROBERT WRIGHT  
16 Assistant United States Attorney

17  
18 

19 NANCY J. SPENCER  
20 Environmental Enforcement Section  
21 United States Department of Justice

22  
23   
24 STEVEN A. HERMAN  
25 Assistant Administrator for Enforcement  
26 U.S. Environmental Protection Agency

27  
28   
FELICIA MARCUS  
Regional Administrator  
U.S. Environmental Protection Agency  
Region 9

25 OF COUNSEL:  
26 ROBERT MULLANEY  
27 Office of Regional Counsel  
28 U.S. EPA Region 9  
75 Hawthorne Street  
San Francisco, California 94105  
(415) 744-1392

1 THE UNDERSIGNED. ON BEHALF OF DEFENDANT TEXACO REFINING AND  
2 MARKETING, INC. enters into this Stipulation, Settlement Agreement, and Order in the matter  
3 of United States v. Texaco Refining and Marketing, Inc., Civ. No. (E.D. Cal.).  
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JUDITH A. WENKER

Senior Attorney, Texaco Inc.  
10 Universal City Plaza  
Universal City, Ca. 91608  
(818) 505-3004

United States District Court  
for the  
Eastern District of California  
September 25, 1998

\* \* CERTIFICATE OF SERVICE \* \*

1:98-cv-06073

USA

v.

Texaco Refining

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Eastern District of California.

That on September 25, 1998, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

AWI DLE

E Robert Wright  
United States Attorney's Office  
1130 O Street  
Room 3654  
Fresno, CA 93721

Nancy J Spencer  
US Department of Justice  
Environmental Enforcement Section  
301 Howard Street  
Suite 870  
San Francisco, CA 94105


Lois J Schiffer  
United States Department of Justice  
Environment and Natural Resources Divisi  
601 Pennsylvania Avenue NW  
Suite 5000  
Washington, DC 20530

Robert D Mullaney  
United States Environmental Protection Agency  
Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

James Joseph Dragna

McCutchen Doyle Brown and Enerson LLP  
355 South Grand Avenue  
Suite 4400  
Los Angeles, CA 90071-1560

Jack L. Wagner, Clerk

BY:   
Deputy Clerk